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TOWN OF ACTON
MASSACHUSETTS

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Date Received
BOARD OF APPEALS
MAR 20 2015

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ACTON BOARD OF APPEALS

BOARD OF APPEALS
(FORM 4)
PETITION FOR A SPECIAL PERMIT

March 20 2015

I/We hereby petition the Board of Appeals for a public hearing and a special permit under Section 8.3.3 of the Zoning By-Law, as provided by G.L. Chapter 40A, Section 9 to allow:

The reconstruction of an existing nonconforming structure within the dimension of its nonconformity. The proposed building footprint will reduce the nonconforming front yard setback but will remain nonconforming.

OFFICE USE ONLY

4 copies of petition? + CD ROM

Location map?

Plot plans?

Additional briefs?

List of abutters and other interested parties?

Fee - \$100.00/1-25 abutters
\$125.00/26+ abutters?

Next Hearing Date? 5/4/15 No 15-08'

Respectfully submitted

Signed Lea Bertalan
(Petitioner)

Name Country Properties, LLC

Address 6 Proctor Street, Acton, MA 01720

Phone # _____

Signed Lea Bertalan
(Owner of record)

Name Country Properties, LLC

Address 6 Proctor Street, Acton, MA 01720

Phone # _____

A special permit may be granted by the Board of Appeals under specific paragraphs of the Zoning By-Law. In general, the use may be permitted if the special permit will be in harmony with the general provisions and intent of the Zoning By-Law and if all requirements or conditions for the granting of such a permit, as contained in the specific sections of the Zoning By-Law, have been satisfied.

SPECIAL PERMIT REQUEST TO ACTON ZONING BOARD OF APPEALS

COUNTRY PROPERTIES, LLC

429 GREAT ROAD, ACTON, MASSACHUSETTS 01720

MARCH 20, 2015

I. INTRODUCTION

Country Properties, LLC (“Country Properties”) submits this filing to the Acton Zoning Board of Appeals (the “Board”) in support of its Special Permit application to make a structural alteration to a pre-existing nonconforming structure at 429 Great Road in Acton, Massachusetts. A Special Permit is required to comply with the Acton Zoning Bylaw (the “Bylaw”) for this altered structure in the Limited Business Zoning District (LB).

As noted below, Country Properties’ building permit proposes to renovate, rehabilitate and upgrade the existing building. The renovation and rehabilitation will affect the building¹ which is presently on the front property boundary with virtually a zero setback so that the closest part of the proposed building will be 15 feet away from Great Road. This will reduce the nonconformity in compliance with M.G.L., c. 40A, §6 and the Bylaw. The building use meets the statutory and specific criteria for a Special Permit necessary for a M.G.L., c. 40A, §6 finding and meets the special permit criteria under the Bylaw. Country Properties hereby presents the information required by the Bylaw in order for the Board to make the necessary findings to issue the Special Permit.

II. DESCRIPTION OF THE PROPERTY

The renovation and rehabilitation is proposed for the century old building on the 1+ acre site at 429 Great Road (the “Property”). The project is proposed by Country Properties. The Property is bounded by apartments to the northeast, Great Road to the southwest, a shopping center to the southeast and commercial property to the northwest. The Property has approximately three hundred (300’) feet of frontage on Great Road with access to municipal water. It has a Title 5 septic system.

The Property has a parking area and the Pegasus Barn, a very old commercial structure. The Property lies relatively flat. The Property begins around elevation 241 at the front corner of the site at Great Road and slopes gradually to the northeast. The 100-year flood plain is not on the Property according to the FIRM map. The building is a pre-existing nonconforming structure as it was constructed prior to enactment of the Zoning Bylaw; and the historic use of the building is as a commercial structure. Existing and proposed uses are consistent with the Bylaw under M.G.L., c. 40A, §6 and Section 8 of the Bylaw.

¹ Pursuant to the definitions in the Acton Bylaw, buildings and structures are considered the same.

III. THE PROJECT

The Project involves renovation and rehabilitation of the three (3) story commercial structure that is presently a Tack Shop with a 10,500 square foot building. The building will be altered with the setback of the front façade at least fifteen (15') feet from Great Road. Parking will be provided in accordance with the Zoning District. The commercial building will be longer than the existing structure and the existing garage will be removed.

IV. THE REQUIREMENTS FOR A SPECIAL PERMIT UNDER 8.3.3 AND 10.3.5 OF THE BYLAW

Section 8.3.3 of the Bylaw regulates nonconforming structures and allows the nonconforming building to be extended by special permit from the Board, provided that the extension otherwise conforms to all the dimensional requirements of the Bylaw, does not expand the nonconformity, and provided further, that the Board finds that such an extension is not substantially more detrimental to the neighborhood than the existing nonconforming condition of the building.

V. THE PROJECT COMPLIES WITH THE GENERAL REQUIREMENTS FOR A SPECIAL PERMIT AND CHAPTER 40A, §6

Section 6 of M.G.L., c. 40A regulates alterations of pre-existing nonconforming structures which are lawful nonconforming structures. Lawful nonconforming structures according to both M.G.L., c. 40A, §6 and the Bylaw are structures in existence prior to the enactment (or publication) of zoning ordinances. In this case the structure is in excess of 100 years old and is a pre-existing nonconforming use.

Country Properties requests that the Zoning Board make the following findings in issuing the Special Permit:

A. The use requested is consistent with the Master Plan.

The Zoning Bylaw and Master Plan allow commercial uses in this Zoning District and the Project will comply with the allowed uses.

The existing Zoning District consists of a limited business dominated by businesses on the well-traveled road per the Master Plan. Country Properties will design the building with consideration to other non-residential buildings along the Great Road corridor leading to the Town of Acton. The Applicant has moved the building off of Great Road approximately fifteen (15') feet to be more consistent with zoning and the neighboring properties, consistent with the Master Plan principles.

B. The structure is in harmony with the purpose of the Acton Zoning Bylaw (10.5.3.2).

The purpose of the Bylaw in Section 1.2 of the Bylaw includes encouraging appropriate use of land throughout the Town to lessen congestion in the streets, to conserve health, to preserve and increase its amenities; to prevent overcrowding of land, to prevent blight and pollution of the environment and to provide acceptable light and air. The purpose of the Bylaw is manifested and reflected in the selection of zoning districts, the uses allowed by the Bylaw in the respective districts, building setbacks and general conditions.

As noted below and on the plans, the design of the building meets the Zoning Bylaw requirements and will provide public benefits with the construction of a rehabilitated building further away from Great Road, landscaping on the perimeter, a compliant Title 5 system, replacement of a structurally deficient building and updated stormwater management.

C. The requested use will not be injurious to the neighborhood in which it is to take place.

1. Great Road is presently used primarily for commercial and business use.
2. The sight distances at the proposed site driveway is not impaired and provides sufficient distance for vehicular use.
3. Proposed plantings and vegetation will be kept low (below 3 feet) so as to not interfere with sight distance.
4. The commercial use will generate vehicular traffic allowed by the Zoning Bylaw.
5. The Project will be designed to meet the stormwater management standards. Country Properties has designed the Project to manage stormwater on-site. Stamski and McNary, Inc. performed the drainage review to determine the existing and post-development stormwater discharge rates. The Town's regulations require the owner to collect, treat and infiltrate stormwater coming into contact with parking lots or impervious surfaces prior to discharge. The stormwater management design incorporates the features required by the state's stormwater standards; not increasing the pre-development rate of runoff in post-development conditions and not increasing the volume of untreated stormwater discharged off-site. The stormwater management design incorporates the regulatory best management practices to meet the stormwater standards.

D. The use is appropriate for the site in question.

Commercial uses for the reconstruction of the building are allowed by right pursuant to the Bylaw.

E. The proposed building complies with the requirements of the Bylaw.

The building will be moved fifteen (15) feet further off the virtual zero front yard setback and meets other side yard, rear yard and FAR dimensional requirements of the Bylaw.

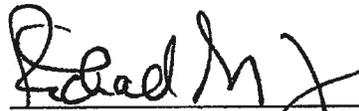
VII. CONCLUSION

Country Properties has proposed to renovate and rehabilitate a pre-existing nonconforming structure and sets the building back. The new building is designed so that it does not loom over the Great Road. The design of the Project will provide landscaping, management of stormwater and will not increase stormwater discharge off-site.

We request the approval of the Special Permit.

Thank you.

Country Properties, LLC
By Its Attorney,



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Dated: March 20, 2015

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